IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3824 OF 2004

Shafik Jahangir Fakir & Ors. ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr.S.A.Ingawale for Applicants.

Mr.D.R.More, A.P.P. for Respondent.

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CORAM: A.M.KHANWILKAR, J.

SEPTEMBER 22, 2004.

P.C.

1. Heard Counsel for the parties. Insofar as prayer for bail at the instance of Applicants 1 and 3 are concerned, I see no reason to depart from the view taken by the Sessions Court. It is observed that the witnesses have consistently stated that these Applicants (Applicants 1 and 3) were armed with deadly weapons and have assaulted injured Chand Sarjekhan and deceased Ahmed alias Banda. Besides, the post-mortem report and injury certificate establishes this position.

2. Having regard to the nature of the offence and the materials on record, application filed on behalf of Applicants 1 and 3 deserves to be rejected. Ordered accordingly.

3. Insofar as Applicant No.2 is concerned, the Court below rejected his application on the solitary reason that the statement of Javed Sarjekhan indicates that the Applicant No.2 had assaulted deceased Banda with stick. Learned A.P.P. fairly accepts that as the post-mortem report indicates only three injuries and the fatal injury caused because of the sword on the head. The Applicant No.2 may be released on bail, as the only one witness has stated that he has assaulted deceased Banda, that too, with stick. Accordingly, Applicant No.2/accused No.3 Latif Jahangir Fakir is released on bail on the following conditions:

(a) The Applicant No.2 is released on bail in relation to C.R.No.34/04 registered with Shiroli, M.I.D.C. Police Station on executing personal bond in the sum of Rs.25,000/- (Rupees Twenty-five

Thousand) with one or two sureties in the like amount.

(b) The Applicant shall report to the concerned Police Station between 10.00 a.m. and 5.00 p.m. on first Saturday of every month during the trial.

(c) The Applicant shall not influence the prosecution witnesses or tamper with the prosecution evidence in any manner whatsoever.

(d) The Applicant shall surrender passport to the Investigating Officer, if any. If the Applicant does not possess any passport, affidavit to that effect be filed before the Trial Court within one week from the date of release.

(e) The Applicant shall extend full co-operation to the Trial Court for early disposal of the trial and if the Trial Court is of the opinion that the Applicant is responsible for the delay of the trial, that can be a ground for cancellation of bail.

. Application allowed on the above terms.

A.M.KHANWILKAR, J.